

### **REMARKS**

This Amendment is responsive to the Office Action dated March 3, 2009. After its entry, claims 1-4, 7-15, 17-20, and 22-24 are currently pending in this application and subject to examination. Claims 6 and 21 are cancelled. Claim 1 is amended. Support for the amendment to claim 1 is found at page 2, lines 1-4, of the present specification. New claims 22, 23, and 24 are added. Support for new claims 22, 23, and 24 are found at page 2, lines 1-4 and page 3, line 5 to page 4, line 14, of the present specification and in claims 1, 5, and 16 as originally filed. Claims 19 and 20 are amended to depend from new claims 23 and 24, respectively. No new matter is added

Reconsideration of the application as amended is respectfully requested in view of the following remarks.

#### **Objection to Claim 6**

Claim 6 stands objected to as being in improper dependent form for failure to further limit the claims from which it depends. Claim 6 is cancelled, rendering this objection moot.

#### **Rejection Under 35 U.S.C. § 112, First Paragraph**

Claim 21 stands rejected as lacking written description support for the recited range of cyclic olefin copolymer. Claim 21 is cancelled, rendering this rejection moot.

#### **Rejection Under 35 U.S.C. § 103(a)**

Claims 1-4, 6-15, and 17-20 stand rejected as obvious over U.S. Patent No. 5,468,803 to Takahashi et al. (Takahashi) in view of U.S. Patent No. 5,783,273 to Yamamoto et al. (Yamamoto) or U.S. Patent No. 5,321,030 to Hirose et al. (Hirose). This rejection is moot as to claim 6, which is cancelled. Applicants respectfully traverse this rejection as to claims 1-4, 6-15, and 17-20, as amended, and new claims 22-24.

Claim 1, as amended, is non-obvious over the combined disclosures of Takahashi and Yamamoto or Hirose since the combined disclosures of these references fail to teach or suggest all of its limitations. Claim 1, as amended, recites:

“[A] process for producing a packaging composed of a thermoformable film composed of thermoplastic polyolefins, via thermoforming, where, after thermoforming, the film has an improved heat distortion temperature and a high water-vapor barrier, *which comprises using, in the thermoformable film, an amount in the range of from 20 to 80 % by weight, based on the total weight of polyolefins*, of COC with a glass transition temperature T<sub>g</sub> in the range from 65 to 200°C, measured to DIN EN ISO 11357-1 with the aid of a DSC at a heating rate of 10 K/min, and which comprises producing therefrom, via thermoforming at a temperature in the range from 70 to 170°C a packaging whose heat distortion temperature is in the range from 60 to 200°C.”

(emphasis added) As such, polyolefins other than the recited COC are present in the recited thermoformable film in an amount in the range of from 20 to 80 % by weight, based on the total weight of the polyolefins. In contrast, the compositions of Takahashi contain no greater than 10 % by weight of polymers (*i.e.*, compounding ingredient) other than its norbornene group-based polymers, as acknowledged by the Examiner. Takahashi at column 7, lines 50-57. Furthermore, Takahashi teaches away from adding compounding ingredient to its norbornene group-based polymers in amounts greater than 10 % by weight, since the resulting composition tends to have low transparency, glass transition temperature, and heat resistance. Takahashi at column 7, lines 57-61. To establish *prima facie* obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. *See* MPEP § 2143.03 (citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). The combined disclosures of Takahashi and Yamamoto or Hirose fail to teach or suggest all of the limitations of amended claim 1. As such, the combined disclosures fail to render amended claim 1 *prima facie* obvious. Furthermore, claims 2-4, 6-15,

17-20, and 22-24 are likewise nonobvious over the combined disclosures of these references, since all of these claims depend directly or indirectly from amended claim 1. Applicants respectfully request withdrawal of this rejection.

Furthermore, Applicants respectfully submit that the present specification contains adequate written description support for the recited range of cyclic olefin copolymer, namely "from 20 to 80 % by weight." The standard for compliance with the written description requirement is met when the description clearly allows the skilled artisan to recognize that the inventor invented what is claimed. MPEP 2163.02 (citing *In re Gosteli*, 872 F.2d 1008, 1012 (Fed. Cir. 1989)). While the range "from 20 to 80 % by weight" is not recited *verbatim* in the present specification (which, in any event, is not the standard for meeting the written description requirement), the present specification does recite the ranges "from 20 to 90% by weight" and "from 25 to 80% by weight" at page 2, line 3. Thus, the skilled artisan would consider the range "from 20 to 80 % by weight" to be inherently supported by these recited ranges, since (1) the former literally recites the lower limit of the claimed range, the (2) latter literally recites the upper limit of the claimed range, and (3) the claimed range falls within the "from 20 to 90% by weight" range. See MPEP 2163.05 (III) (citing *In re Wertheim*, 541 F.2d 257 (C.C.P.A. 1976)).

In view of the foregoing amendment and remarks, Applicants believe the pending application is in condition for allowance.

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Applicants believe no fee is due with this amendment. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 13975-00002-US, from which the undersigned is authorized to draw.

Dated: June 3, 2009

Respectfully submitted,

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